

AMENDMENT TO H.R. 4016**OFFERED BY MR. OBERSTAR OF MINNESOTA**

Page 19, after line 4, insert the following (and redesignate subsequent subsections accordingly):

1 “(g) RESEARCH AND TESTING.—

2 “(1) IN GENERAL.—The Administrator of the
3 Pipeline and Hazardous Materials Safety Adminis-
4 tration, in coordination with the Administrator of
5 the Federal Aviation Administration, shall conduct
6 research and testing to evaluate the risks posed by
7 lithium cells and batteries in order to further en-
8 hance risk reduction for the transportation of such
9 cells and batteries on board aircraft.

10 “(2) AREAS TO BE COVERED.—The research
11 and testing shall cover, at a minimum, the following
12 areas:

13 “(A) Fire behavior of lithium cells and bat-
14 teries of various sizes and packaging configura-
15 tions to better understand the transportation
16 risks posed by such cells and batteries.

17 “(B) Fire-resistant containers to develop
18 performance standards for such containers, in-
19 cluding fireproof overpacks and unit load de-

1 vices, which can be used for the transportation
2 of lithium cells and batteries on board aircraft.

3 “(C) Fire-resistant containers that flight
4 crews can use in an emergency to temporarily
5 store a lithium cell or battery or electronic de-
6 vice containing such a cell or battery that is
7 hot.

8 “(D) How container designs and their lo-
9 cations in aircraft cargo compartments may de-
10 crease potential risks of fire.

11 “(E) Fire detection and suppression, in-
12 cluding analysis of possible container internal
13 detection and suppression methods and their ef-
14 fectiveness on the control or containment of
15 fires involving a lithium cell or battery and of
16 the pressure effects of burning and exploding
17 lithium cells or batteries and the possible pene-
18 tration of compartment liners and containers by
19 high temperature fragments.

20 “(3) ADDITIONAL MEASURES.—Based on any
21 results of the research described under this sub-
22 section, the Administrator of the Pipeline and Haz-
23 ardous Materials Safety Administration, in coordina-
24 tion with the Administrator of the Federal Aviation
25 Administration, shall consider requiring additional

1 safety measures to reduce the risks posed by the
2 transportation of lithium cells and batteries on
3 board aircraft.

Page 21, strike line 1 and all that follows before line
8 on page 24 and insert the following:

4 **SEC. 202. REQUIREMENTS RELATING TO EXTERNAL PROD-**
5 **UCT PIPING ON CARGO TANKS TRANS-**
6 **PORTING FLAMMABLE LIQUID.**

7 (a) IN GENERAL.—Chapter 51 is amended by insert-
8 ing after section 5117 the following:

9 **“§ 5118. Requirements relating to external product**
10 **pip ing on cargo tanks transporting flam-**
11 **mable liquid**

12 **“(a) IN GENERAL.—**

13 **“(1) PROHIBITION FOR NEW CARGO TANK**
14 **MOTOR VEHICLES.—**The Secretary shall prohibit the
15 transportation of a Class 3 flammable liquid in the
16 external product piping of a cargo tank motor vehi-
17 cle manufactured on or after the last day of the 2-
18 year period beginning on the date of enactment of
19 the Hazardous Material Transportation Safety Act
20 of 2009.

21 **“(2) PROHIBITION FOR EXISTING CARGO TANK**
22 **MOTOR VEHICLES.—**

1 “(A) IN GENERAL.—No person may offer
2 for transportation or transport a Class 3 flam-
3 mable liquid in the external product piping of a
4 cargo tank motor vehicle on or after December
5 31, 2025.

6 “(B) WAIVER.—The Secretary may grant
7 a waiver to a person extending the date referred
8 to in subparagraph (A) if the Secretary finds
9 that granting the waiver would be in the public
10 interest.

11 “(b) LIMITATION ON APPLICABILITY.—

12 “(1) IN GENERAL.—Subsection (a) does not
13 apply—

14 “(A) to a cargo tank motor vehicle de-
15 signed and constructed with engine, body, and
16 cargo tank permanently mounted on the same
17 chassis with product piping protected from im-
18 pact by another motor vehicle by the structural
19 components of the cargo tank motor vehicle,
20 such as damage protection guards, framing
21 members, or wheel assemblies; or

22 “(B) to a minimal amount, as determined
23 by the Secretary by regulation, of hazardous
24 material residue that remains in the external
25 product piping after the piping is drained.

1 “(2) ALTERNATIVE MEANS OF COMPLIANCE.—

2 Subsection (a) does not apply to a cargo tank motor
3 vehicle that utilizes an alternative means to elimi-
4 nate the safety hazard presented by the transpor-
5 tation of a Class 3 flammable liquid in the external
6 product piping of such vehicle, if the Secretary de-
7 termines, following notice and an opportunity for
8 public comment, that such alternative means pro-
9 vides a level of safety at least ~~equal~~ to the level of *equivalent*
10 safety that would be provided by a prohibition of the
11 transportation of a Class 3 flammable liquid in the
12 external product piping of such vehicle.

13 “(c) ENFORCEMENT PERSONNEL.—

14 “(1) IN GENERAL.—The Secretary shall issue
15 guidance to motor carrier safety enforcement per-
16 sonnel on how to conduct inspections of cargo tank
17 motor vehicles in a manner that ensures safety. The
18 guidance shall prohibit such enforcement personnel
19 from opening valves of external product piping dur-
20 ing inspections or conducting any other activity that
21 could cause the release of hazardous material at the
22 inspection site.

23 “(2) CONSULTATION.—In developing the guid-
24 ance under paragraph (1), the Secretary shall con-
25 sult with a nonprofit organization comprised of Fed-

1 eral, State, and local motor carrier safety enforce-
2 ment personnel.

3 “(d) WORKER SAFETY.—

4 “(1) IN GENERAL.—The Secretary and the Sec-
5 retary of Labor shall each review and update, as ap-
6 propriate, existing standards of the Secretary to en-
7 sure that personnel who conduct any activities pur-
8 suant to this section, including welding, are ade-
9 quately protected.

10 “(2) CONSULTATION.—In conducting the review
11 and update under paragraph (1), the Secretary and
12 the Secretary of Labor shall each consult, as appro-
13 priate, with a nonprofit organization representing
14 employees of cargo tank motor vehicle operators and
15 a nonprofit organization representing cargo tank
16 motor vehicle owners and operators.

17 “(e) DEFINITIONS.—In this section:

18 “(1) CARGO TANK MOTOR VEHICLE.—The term
19 ‘cargo tank motor vehicle’ has the meaning given
20 such term in part 171 of title 49, Code of Federal
21 Regulations, as in effect on the date of enactment of
22 the Hazardous Material Transportation Safety Act
23 of 2009.

24 “(2) CLASS 3 FLAMMABLE LIQUID.—The term
25 ‘Class 3 flammable liquid’ has the meaning given

1 such term in section 173.120(a) of title 49, Code of
2 Federal Regulations, as in effect on the date of en-
3 actment of the Hazardous Material Transportation
4 Safety Act of 2009.”.

5 (b) CLERICAL AMENDMENT.—The analysis for chap-
6 ter 51 is amended by inserting after the item relating to
7 section 5117 the following:

“5118. Requirements relating to external product piping on cargo tanks trans-
porting flammable liquid.”.

Page 26, after line 19, insert the following (and con-
form the table of contents accordingly):

8 **SEC. 204. REPORT ON CARGO TANK ROLLOVERS.**

9 (a) IN GENERAL.—Not later than 180 days after the
10 date of enactment of this Act, the Secretary shall transmit
11 to the Committee on Transportation and Infrastructure
12 of the House of Representatives and the Committee on
13 Commerce, Science, and Transportation of the Senate a
14 report regarding the results of any research conducted by
15 the Department on cargo tank rollovers in the 5-year pe-
16 riod preceding the date of enactment of this Act.

17 (b) CONTENTS.—The report shall include the Depart-
18 ment’s response to any outstanding safety recommenda-
19 tions issued by the National Transportation Safety Board
20 related to cargo tank rollovers and any recommendations

1 the Secretary has for addressing such rollovers, including
2 stability control.

Page 34, after line 9, insert the following (and re-designate subsequent sections, and conform the table of contents, accordingly):

3 **SEC. 401. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT,**
4 **RESEARCH, AND ANALYSIS PROGRAM.**

5 (a) RISK REDUCTION.—The Secretary shall develop
6 and implement a hazardous material technical assessment,
7 research, and analysis program aimed at reducing risks
8 associated with the transportation of hazardous material
9 and identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.
11

12 (b) REPORT.—Not later than 4 years after the date
13 of enactment of this Act, the Secretary shall transmit to
14 the Committee on Transportation and Infrastructure of
15 the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report
17 on the results of the activities carried out under subsection
18 (a).

19 (c) COOPERATIVE RESEARCH PROGRAM.—The Secretary may continue to support the hazardous material cooperative research projects being carried out through a
21

1 contract with the National Academy of Sciences under sec-
2 tion 7131 of SAFETEA-LU (119 Stat. 1910).

3 (d) AUTHORIZATION.—

4 (1) FUNDING.—Out of amounts authorized to
5 be appropriated out of the Highway Trust Fund
6 (other than the Mass Transit Account) to carry out
7 sections 502, 503, 506, 507, and 509 of title 23,
8 United States Code, for fiscal years 2010 through
9 2014, there shall be available to carry out this sec-
10 tion \$1,250,000.

11 (2) APPLICABILITY OF TITLE 23, UNITED
12 STATES CODE.—Funds made available under para-
13 graph (1) shall be available for obligation and ad-
14 ministered in the same manner as if such funds were
15 apportioned under chapter 1 of title 23, United
16 States Code, except that the Federal share of the
17 cost of a project or activity carried out using such
18 funds shall be 100 percent and such funds shall re-
19 main available until expended.

Page 41, after line 15, insert the following (and re-
designate subsequent paragraphs accordingly):

20 “(3) APPLICATIONS TO BE DEALT WITH
21 PROMPTLY.—The Secretary shall issue or renew an
22 approval for which a request was filed in accordance
23 with part 107 of title 49, Code of Federal Regula-

1 tions, or deny such issuance or renewal, on or before
2 the last day of the 180-day period beginning on the
3 first day of the month following the date of the filing
4 of such request, or the Secretary shall publish a
5 statement in the Federal Register of the reason why
6 the Secretary's decision on the approval or renewal
7 is delayed, along with an estimate of the additional
8 time necessary before the decision is made.

Page 42, strike line 3 and all that follows through
line 12 and insert the following:

9 “(j) CRITERIA AND PROCEDURES.—

10 “(1) IN GENERAL.—The Secretary shall issue
11 guidance to applicants for special permits and ap-
12 provals that contains the criteria and procedures
13 that the Secretary will utilize to determine that a
14 person is fit, willing, and able to conduct the activity
15 authorized by the special permit or approval.

16 “(2) INTERIM GUIDANCE.—Not later than 30
17 days after the date of enactment of the Hazardous
18 Material Transportation Safety Act of 2009, the
19 Secretary shall issue interim guidance under para-
20 graph (1).

21 “(3) PUBLIC NOTICE.—Such interim guidance
22 shall be published in the Federal Register to provide
23 notice and an opportunity for public comment.

1 “(4) FINAL GUIDANCE.—Not later than 90
2 days after the date of enactment of such Act, the
3 Secretary shall issue final guidance under paragraph
4 (1).

5 “(5) PUBLIC AVAILABILITY.—The Secretary
6 shall make the criteria and procedures established
7 under paragraph (1) available to the public on the
8 Department of Transportation’s Internet Web site.

9 “(6) UPDATES.—The Secretary shall review
10 and update the guidance issued under paragraph (4)
11 as the Secretary determines appropriate.

12 “(7) SAVINGS PROVISION.—Nothing in this sub-
13 section shall affect the Secretary’s existing authori-
14 ties under section 107.113 of title 49, Code of Fed-
15 eral Regulations, as in effect on the date of enact-
16 ment of the Hazardous Material Transportation
17 Safety Act of 2009.

Page 42, line 16, strike “, and ensuring compliance
with the terms of,”.

Page 43, after line 21, insert the following (and re-
designate subsequent subsections accordingly):

18 (c) REVIEW OF SPECIAL PERMITS; REGULATIONS.—
19 (1) REVIEW OF SPECIAL PERMITS.—Not later
20 than 18 months after the date of enactment of this

1 Act, the Administrator of the Pipeline and Haz-
2 arduous Materials Safety Administration, in coordina-
3 tion with appropriate modal contact officials, shall
4 conduct a review of the special permits that have
5 been issued under section 5117 of title 49, United
6 States Code, before such date of enactment to deter-
7 mine—

8 (A) whether any activities authorized by a
9 special permit should be incorporated into and
10 authorized by regulations issued under chapter
11 51 of such title; and

12 (B) whether any special permit should be
13 modified or revoked because—

14 (i) the activity authorized by the spe-
15 cial permit does not achieve a safety level
16 that is at least equal to the safety level re-
17 quired under section 5117(a)(1) of such
18 title; or

19 (ii) the safety level required for the
20 activity authorized by the special permit—

21 (I) does not exist; or

22 (II) is inconsistent with the pub-
23 lic interest; or

24 (iii) the person holding the special
25 permit is not fit, willing, and able to con-

1 duct the activity authorized by the special
2 permit in a manner that achieves the safe-
3 ty level required under section 5117(a)(1)
4 of such title.

5 (2) REGULATIONS.—Not later than 3 years
6 after the date of enactment of this Act, the Sec-
7 retary shall modify regulations issued under chapter
8 51 of such title to incorporate and authorize activi-
9 ties identified by the Secretary pursuant to para-
10 graph (1)(A).

